

Commonwealth of Massachusetts
HAMPDEN SUPERIOR COURT
Case Summary
Civil Docket

04 CV 30003-MAP

HDCV2003-00539
Pacholski v AIG Ins Co

File Date	05/28/2003	Status	Disposed: transfered to other court (dtrans)	
Status Date	03/17/2004	Session	B - Civil B - CtRm 5	
Origin	1	Case Type	D01 - Specific performance of contract	
Lead Case		Track	A	
Service	08/26/2003	Answer	10/25/2003	Rule12/19/20 10/25/2003
Rule 15	08/20/2004	Discovery	07/16/2005	Rule 56 09/14/2005
Final PTC	01/12/2006	Disposition	05/27/2006	Jury Trial Yes

PARTIES

Plaintiff
Michael Pacholski
40 Converse Street
Longmeadow, MA 01106
Phone: 413-567-0748
Active 05/28/2003 Notify

Defendant
AIG Ins Co
Service pending 05/28/2003

Private Counsel 402120
Richard J Poliferno
Long & Houlden
100 Summer Street
11th Floor
Boston, MA 02110
Phone: 617-439-4777
Fax: 617-439-3153
Active 09/08/2003 Notify



ENTRIES

Date	Paper	Text
05/28/2003	1.0	Complaint & civil action cover sheet filed
05/28/2003		Origin 1, Type D01, Track A.
09/08/2003	2.0	Defendant AIG Ins Co's MOTION to Dismiss (MRCP 12b) Complaint of Michael Pacholski
09/15/2003		(P#2) (dated 9/10/03) Parties are to mark for hearing any Tuesday or Wednesday at 2p.m. with proper notice to all parties (Mary Lou Rup, Justice). Notices mailed/faxed September 16, 2003
10/30/2003		(P#2) (dated 10/21/03) DENIED (Daniel Ford, Justice) Notices mailed/faxed October 30, 2003
03/17/2004	3.0	Case REMOVED this date to US District Court of Massachusetts.

A TRUE COPY
OF THE DOCKET MINUTES:
IN WITNESS WHEREOF, I hereunto
set my hand, and have caused the seal
of the Superior Court for the County
of Hampden to be affixed on this
22nd day of March, 2004.

Barbara Holubecki
Deputy Assistant Clerk

EVENTS

Date	Session	Event	Result
10/21/2003	Civil B - CtRm 5	Motion/Hearing: Rule12 to Dismiss # 2, Motion to dismiss.	Event held as scheduled

f

COMMONWEALTH OF MASSACHUSETTS
Hampden, ss. Superior Court
C.A. No. 2003-539

MICHAEL PACHOLSKI,
Plaintiff

vs.

AIG INSURANCE CO.
Defendant

HAMPDEN COUNTY
SUPERIOR COURT
FILED

SEP - 8 2003

Denial

QA Jork

10/21/03

Marie Shagga
CLERK-MAGISTRATE

EX: 10/30/03 TM

**DEFENDANT'S MOTION TO DISMISS PLAINTIFF'S COMPLAINT PURSUANT
TO RULE 12(b)(6) FOR FAILURE TO STATE A CLAIM UPON WHICH
RELIEF CAN BE GRANTED AND THE APPLICABLE STATUTE OF
LIMITATIONS**

Now comes the defendant AIG Insurance Company and requests this court to dismiss plaintiff's Complaint and purported Amended Complaint for failure to state a claim and barred by the applicable Statute of Limitations. As reasons therefor, the defendant states as follows:

1. The plaintiff filed this action on or about May 28, 2003.
2. The plaintiff purported to file an Amended Complaint on or about June 19, 2003. However, there is no indication that this court ever received this purported Amended Complaint or that it was properly served on the defendant.
3. Rule 12 of the Massachusetts Rules of Civil Procedure provides relief to a defendant when the plaintiff has failed to state a claim in his Complaint. Rule 12(b)(6) Mass. R. Civ. P.
4. The plaintiff has failed to state a claim in either his Complaint or purported Amended Complaint and therefore, pursuant to Rule 12(b)(6), the plaintiff's Complaint must be dismissed.
5. The plaintiff has failed to identify a date on which his alleged damage occurred. Therefore, the plaintiff's Complaint must be dismissed.

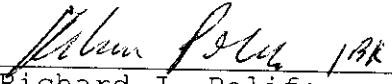
9-10-03 (Rep, J.) (motions are to mark for hearing any Tuesday or Wednesday at 2 p.m. with proper notice to all parties. Attest: J. G. Chaffey, Court Clerk)

*filed
EX: 9/15/03 TM*

2

WHEREFORE, the defendant respectfully requests that the plaintiff's Complaint be dismissed pursuant to Rule 12(b)(6) for failure to state a claim.

Respectfully submitted,


Richard J. Poliferno
Attorney for the Defendant
Long & Houlden
200 State Street
Boston, MA 02109
BBO# 402120

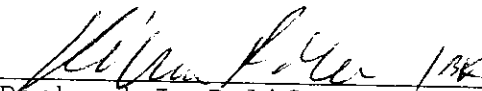
CERTIFICATE OF SERVICE

I, Richard J. Poliferno, Attorney for the Defendant, hereby certify that on this 31st day of July, 2003, I have served a copy of the following documents:

1. DEFENDANT'S MOTION TO DISMISS PLAINTIFF'S COMPLAINT PURSUANT TO RULE 12(b)(6) FOR FAILURE TO STATE A CLAIM UPON WHICH RELIEF CAN BE GRANTED AND THE APPLICABLE STATUTE OF LIMITATIONS

by mailing a copy of the same first class mail, postage prepaid, to counsel of record:

Michael Pacholski, Pro Se
40 Converse Street
Long Meadow, MA 01106


Richard J. Poliferno
Attorney for Defendant
Long & Houlden
200 State Street
Boston, MA 02109
(617) 439-4777
BBO # 402120

CERTIFICATE OF COMPLIANCE PURSUANT TO RULE 9A

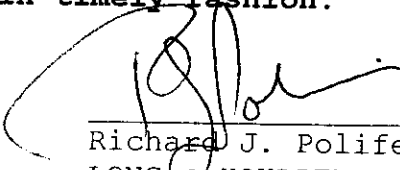
I, Richard J. Poliferno, Attorney for the Defendant, hereby certify that on the 31st day of July, 2003, I served a copy of the following document:

**DEFENDANT'S MOTION TO DISMISS PLAINTIFF'S COMPLAINT
PURSUANT TO RULE 12(b)(6) FOR FAILURE TO STATE A CLAIM UPON
WHICH RELIEF CAN BE GRANTED AND THE APPLICABLE STATUTE OF
LIMITATIONS**

by mailing a copy of the same first class mail, postage prepaid, to counsel of record:

Michael Pacholski, Pro Se
40 Converse Street
Long Meadow, MA 011016

No Opposition has been received as of today's date and counsel hereby certifies compliance with Rule 9A and receipt of no Opposition in timely fashion.



Richard J. Poliferno
LONG & HOULDEN
200 State Street
Boston, MA 02109
(617) 439-4777
BBO#: 402120

DATE: September 5, 2003

NOTICE OF FILING

I, Richard J. Poliferno, Attorney for the Defendant, hereby give notice that on this 5th day of September, 2003, I have filed a copy of the following documents:

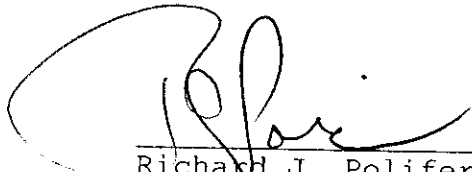
**DEFENDANT'S MOTION TO DISMISS PLAINTIFF'S COMPLAINT PURSUANT
TO RULE 12(b)(6) FOR FAILURE TO STATE A CLAIM UPON
WHICH RELIEF CAN BE GRANTED AND THE APPLICABLE STATUTE
OF LIMITATIONS**

LIST OF DOCUMENTS

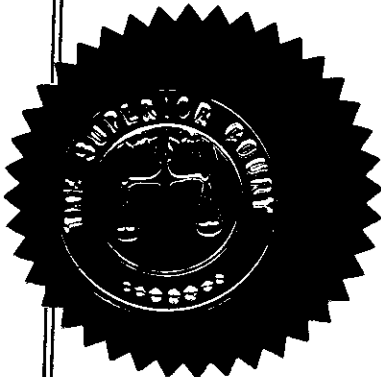
CERTIFICATE OF COMPLIANCE

A copy of this Notice of Filing has been mailed, by first class mail, postage prepaid, to counsel of record:

Michael Pacholski, Pro Se
40 Converse Street
Long Meadow, MA 01106



Richard J. Poliferno
LONG & HOULDEN
200 State Street
Boston, MA 02109
(617) 439-4777
BBO #402120



a true copy.

Attest:


Deputy Assistant Clerk

LIST OF DOCUMENTS

1. DEFENDANT'S MOTION TO DISMISS PLAINTIFF'S COMPLAINT
PURSUANT TO RULE 12(b)(6) FOR FAILURE TO STATE A CLAIM
UPON WHICH RELIEF CAN BE GRANTED AND THE APPLICABLE
STATUTE OF LIMITATIONS
2. CERTIFICATE OF SERVICE
3. CERTIFICATE OF COMPLIANCE
4. NOTICE OF FILING

RECEIVED

SEP 29 2003

09-26-2003

CLERK OF COURTS
HAMPDEN COUNTY

Dear sir/ms

Ref. Civil Docket HDCV 2003-00539

Per our conversation on 09-26-2003 I am confirming mine and attorney Richard J. Poliferno appointment for a hearing on Tuesday, October 21, 2003 at 2:00 p.m.. to hear motion for dismissal. (# 2)

I have spoken with attorney Richard J. Poliferno and the October 21, 2003 date is ok with him.

Sincerely


Michael Pacholski

cc Attorney Richard J. Poliferno

mjpaig6



a true copy.

Attest:


Deputy Assistant Clerk

**CIVIL ACTION
COVER SHEET**

Case 3:04-cv-30003-MAP

DOCKET NO.(S)

Document 3

Filed 03/25/2004

Page 8 of 8

**Trial Court of Massachusetts
Superior Court Department**



County: _____

PLAINTIFF(S)

Michael Pacholski

DEFENDANT(S)

AIG Life Insurance Co.

ATTORNEY, FIRM NAME, ADDRESS AND TELEPHONE

ATTORNEY (if known)

Board of Bar Overseers number:

Origin code and track designation

Place an x in one box only:

- ☒ 1. F01 Original Complaint
☐ 2. F02 Removal to Sup.Ct. C.231,s.104 (Before trial) (F)
☐ 3. F03 Retransfer to Sup.Ct. C.231,s.102C (X)

- ☐ 4. F04 District Court Appeal c.231, s. 97 & 104 (After trial) (X)
☐ 5. F05 Reactivated after rescript; relief from judgment/Order (Mass.R.Civ.P. 60) (X)
☐ 6. E10 Summary Process Appeal (X)

TYPE OF ACTION AND TRACK DESIGNATION (See reverse side)

CODE NO.

TYPE OF ACTION (specify) TRACK

IS THIS A JURY CASE?

DO 1 Specific Performance (A)

☒ Yes () No

The following is a full, itemized and detailed statement of the facts on which plaintiff relies to determine money damages. For this form, disregard double or treble damage claims; indicate single damages only.

TORT CLAIMS

(Attach additional sheets as necessary)

A. Documented medical expenses to date:

1. Total hospital expenses
 2. Total Doctor expenses
 3. Total chiropractic expenses
 4. Total physical therapy expenses
 5. Total other expenses (describe)

**HAMPDEN COUNTY
SUPERIOR COURT
FILED**

MAY 28 2003

Marie J. Piazza
CLERK-MAGISTRATE

Subtotal \$

B. Documented lost wages and compensation to date

C. Documented property damages to date

D. Reasonably anticipated future medical and hospital expenses

E. Reasonably anticipated lost wages

F. Other documented items of damages (describe)

G. Brief description of plaintiff's injury, including nature and extent of injury (describe)

TOTAL \$

CONTRACT CLAIMS

(Attach additional sheets as necessary)

Portion of claim(s):
true copy.

Attest:

Barbara Holubicki
Deputy Assistant Clerk

\$ 250,000.00
TOTAL \$

PLEASE NOTIFY, BY CASE NUMBER, NAME AND COUNTY, ANY RELATED ACTION PENDING IN THE SUPERIOR COURT DEPARTMENT

"I hereby certify that I have complied with the requirements of Rule 5 of the Supreme Judicial Court Uniform Rules on Dispute Resolution (SJC Rule 1:18) requiring that I provide my clients with information about court-connected dispute resolution services and discuss with them the advantages and disadvantages of the various methods."

Signature of Attorney of Record

DATE: **05-28-03**

CIVIL ACTION COVER SHEET INSTRUCTIONS

SELECT CATEGORY THAT BEST DESCRIBES YOUR CASE

CONTRACT

A01 Services, labor and materials (F)
 A02 Goods sold and delivered (F)
 A03 Commercial Paper (F)
 A08 Sale or lease of real estate (F)
 A12 Construction Dispute (A)
 A99 Other (Specify) (F)

TORT

B03 Motor Vehicle negligence-
 personal injury/property damage (F)
 B04 Other negligence-personal
 injury/property damage (F)
 B05 Products Liability (A)
 B06 Malpractice-medical (A)
 B07 Malpractice-other(Specify) (A)
 B08 Wrongful death,G.L.c.229,s2A (A)
 B15 Defamation (Libel-Slander) (A)
 B19 Asbestos (A)
 B20 Personal Injury-Slip&Fall (F)
 B21 Environmental (A)
 B22 Employment Discrimination (F)
 B99 Other (Specify) (F)

REAL PROPERTY

C01 Land taking (eminent domain) (F)
 C02 Zoning Appeal, G.L. c.40A (F)
 C03 Dispute concerning title (F)
 C04 Foreclosure of mortgage (X)
 C05 Condominium lien and charges (X)
 C99 Other (Specify) (F)

EQUITABLE REMEDIES

D01 Specific performance of contract (A)
 D02 Reach and Apply (F)
 D06 Contribution or Indemnification (F)
 D07 Imposition of Trust (A)
 D08 Minority Stockholder's Suit (A)
 D10 Accounting (A)
 D12 Dissolution of Partnership (F)
 D13 Declaratory Judgment G.L.c.231A (A)
 D99 Other (Specify) (F)

MISCELLANEOUS

E02 Appeal from administrative (X)
 Agency G.L. c. 30A
 E03 Action against Commonwealth
 Municipality, G.L. c.258 (A)
 E05 All Arbitration (X)
 E07 c.112,s.12S (Mary Moe) (X)
 E08 Appointment of Receiver (X)
 E09 General contractor bond,
 G.L. c.149,s.29,29a (A)
 E11 Workman's Compensation (X)
 E14 Chapter 123A Petition-SDP (X)
 E15 Abuse Petition, G.L.c.209A (X)
 E16 Auto Surcharge Appeal (X)
 E17 Civil Rights Act, G.L.c.12,s.11H (A)
 E18 Foreign Discovery proceeding (X)
 E96 Prisoner Cases (F)
 E97 Prisoner Habeas Corpus (X)
 E99 Other (Specify) (X)

TRANSFER YOUR SELECTION TO THE FACE SHEET.

EXAMPLE:

CODE NO.	TYPE OF ACTION (SPECIFY)	TRACK	IS THIS A JURY CASE?
B03	Motor Vehicle Negligence-Personal Injury	(F)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

SUPERIOR COURT RULE 29

DUTY OF THE PLAINTIFF. The plaintiff or his/her counsel shall set forth, on the face sheet (or attach additional sheets as necessary), a statement specifying in full and itemized detail the facts upon which the plaintiff then relies as constituting money damages. A copy of such civil action cover sheet, including the statement as to the damages, shall be served on the defendant together with the complaint. If a statement of money damages, where appropriate is not filed, the Clerk-Magistrate shall transfer the action as provided in Rule 29(5)(C).

DUTY OF THE DEFENDANT. Should the defendant believe the statement of damages filed by the plaintiff in any respect inadequate, he or his counsel may file with the answer a statement specifying in reasonable detail the potential damages which may result should the plaintiff prevail. Such statement, if any, shall be served with the answer.

A CIVIL ACTION COVER SHEET MUST BE FILED WITH EACH COMPLAINT, BUFF COLOR PAPER.

**FAILURE TO COMPLETE THIS COVER SHEET THOROUGHLY AND ACCURATELY
MAY RESULT IN DISMISSAL OF THIS ACTION.**

Michael Pacholski
vs

AIG Ins. Co

03: 539

HAMPDEN COUNTY
SUPERIOR COURT
FILED

MAY 28 2003

Marie Elmagza
CLERK-MAGISTRATE

COMPLAINT

Michael Pacholski, plaintiff, was a participant in the Cooper Industries employees' accidental death and dismemberment benefit plan PAI 8046057. (the plan)

The provisions of the plan states if a member becomes permanent and total disable and is continuously disabling as a result of the injury within three hundred and sixty-five days of the accidents as to be prevented from engaging in any gainful occupation. The company will pay the covered person, after such person has been so disable for twelve (12) consecutive mo. the principal sum as stated in the policy.

I have been deemed to be total disabled by Social Security. I have been receiving disability benefit since May 1998, by my doctors Dr. Glynn and Dr. Mckee and your doctor Dr. Grove. All four have considered me to be total and permanent disabled.

To date AIG has not lived up to their commitments.

to be paid one
to Paid - \$ 200.00 Cash ONE
to be Paid - \$ 10.00 Cash ONE
to be Paid - \$ B.H.

Commonwealth of Massachusetts

County of Hampden

The Superior Court

Location: Courtroom 6 - 3rd fl
Telephone: 413.735-6017

Assistant Clerk

(Docket #)

Plaintiff
✓

Defendant

Complaint

Michael Pacholski
40 Converse St.
Long meadow, ma-01106
413-567-0748
AIG
AIG Life Insurance Co
Accident & Health Claims Dept.
P.O. Box 15701
Wilmington, DE. 19850-5701



a true copy,

Attest:

Barbara Kolubecki
Deputy Assistant Clerk

Check website as to status of case: <http://ma-trialcourts.org/tcic>